Rockland County
Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

August 2, 2017

Ramapo Zoning Board of Appeals
237 Route 59
Suffern, NY 10901

Tax Data: 49.15-3-26

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 2/15/2017 **Date Review Received:** 7/6/2017

Item: ***MENDEL BIRNBAUM - LOT 2 - 3-FAMILY RESIDENCE WITH 3 ACC. APARTMENTS (R-2186D)***

A variance application for rear setback, rear setback deck, and floor area ratio (other variances granted previously) to allow a proposed two-lot subdivision. Each lot will have a 3-family residence with 3 accessory apartments on 0.21 acres in the R-15C zoning district.
The southern side of Calvert Drive, approximately 110 feet west of School Street.

Reason for Referral:

Village of Kaser

The County of Rockland Department of Planning has reviewed the above item. Acting under the terms of the above GML powers and those vested by the County of Rockland Charter, I, the Commissioner of Planning, hereby:

***Disapprove**

1 Permitting development that does not comply with the applicable bulk standards can set an undesirable land use precedent and result in the overutilization of individual sites. This property has already received variances for lot area, lot width, side yard, street frontage, and development coverage. This application proposes reducing the rear setback by 67%, the rear deck setback by 80%, and increasing the generous floor area ratio by over 21%. The ability of the existing infrastructure to accommodate increased residential density on undersized parcels is a countywide concern and must be evaluated. This evaluation must consider whether local roads will become more congested and the sewer system, stormwater management systems and the public water supply will be overburdened. The Town must consider the cumulative and regional impacts of permitting such development.

2 As per Section 376-65.G.(3), three-family residences, either detached or semiattached, which are located on lots with less than the required minimum width of 75 feet are permitted to contain only one accessory apartment for the entire three-family residence. Since the proposed lot widths are 50 feet, only one accessory apartment is permitted on each parcel. A variance is required for the second and third apartments. This must be noted on the bulk table.

3 The NYS Department of State has determined that the Town is not administering or enforcing the State Uniform Fire Prevention and Building Code in accordance with minimum standards set forth in 19 NYCRR part 1203. Given the concerns about the Town's administration and enforcement of the State Uniform Fire Prevention and Building Code raised in the Executive Deputy Secretary of State's letter of July 15, 2016, the proposed residential building must be held to the requisite minimum standards and comply with all requirements of this code.
As shown, the proposed residential building will require a variance from the New York State Uniform Fire Prevention and Building Code since the proposed deck is located closer than ten feet to the property line.

4 The large number and scope of the requested variances, along with the challenges presented by the proposed parking layout, suggest a general overdevelopment of the site. In order to bring the use of the property more in line with its capacity to be developed, the number of units must be reduced.

In the event the Ramapo Zoning Board of Appeals votes to override this disapproval, we recommend the following modifications:

5 The Village of Kaser is the reason this proposal was referred to this department for review. The municipal boundary is directly adjacent to the northern side of the property. New York State General Municipal Law states that the purposes of Sections 239-l, 239-m and 239-n shall be to bring pertinent inter-community and county-wide planning, zoning, site plan and subdivision considerations to the attention of neighboring municipalities and agencies having jurisdiction. Such review may include inter-community and county-wide considerations in respect to the compatibility of various land uses with one another; traffic generating characteristics of various land uses in relation to the effect of such traffic on other land uses and to the adequacy of existing and proposed thoroughfare facilities; and the protection of community character as regards predominant land uses, population density, and the relation between residential and nonresidential areas. In addition, Section 239-nn was enacted to encourage the coordination of land use development and regulation among adjacent municipalities, and as a result development occurs in a manner which is supportive of the goals and objectives of the general area.

The Village of Kaser must be given the opportunity to review the proposal and its impact on community character, traffic, water quantity and quality, drainage, stormwater runoff and sanitary sewer service. The areas of countywide concern noted above that directly impact the Village of Kaser must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

6 Pursuant to the Rockland County Sanitary Code, Article XIII, Section 13.8.1, all multiple dwellings with three or more rental units must register and obtain a Multiple Dwelling Rental Certificate (MDRC). If this proposed multi-family dwelling meets the requirements of the Multiple Dwelling Rental Registry requirement, then the owner must register and obtain the MDRC. Failure to comply is a violation of Article XIII, which may result in penalties of $2,000 per day.

7 The trash enclosure is blocked by parking spaces 1 and 2. It must be relocated so that it is not blocked by parked cars and does not impede parking or emergency vehicles.

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8 A review must be completed by the Rockland County Department of Health to ensure compliance with Article XIX (Mosquito Control) of the Rockland County Sanitary Code.

9 A review shall be completed by the Rockland County Sewer District #1 and any required permits obtained.

10 A review must be completed by the Rockland County Office of Fire and Emergency Services, the Town of Ramapo Fire Inspector, or the Monsey Fire Department to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises.

11 The Town of Ramapo Building Inspector's letter of June 2, 2017 lists 10 comments from the Fire Inspector and 13 comments with regard to architectural plans. The comments must be addressed and their concerns met.

12 The specific height of the proposed building must be provided in the bulk table so that it can be determined if an aerial apparatus road is required.

13 The site plan shall contain map notes, including district information.

14 The 45 foot easement for the ingress, egress, parking, and utilities must be added as both a map note and described in the deed so that future property owners are aware of its existence.

15 There shall be no net increase in the peak rate of discharge from the site at all design points.

16 Prior to the start of construction or grading, a soil and erosion control plan shall be developed and in place for the entire site that meets the latest edition of the New York State Guidelines for Urban Erosion and Sediment Control.

17 Although this property has received variances to allow its subdivision, there is no record of the property having actually been subdivided, according to the Ramapo Tax Assessor. This variance application applies to a parcel that does not yet exist. An application for the subdivision of this property must be made.

18 Pursuant to General Municipal Law (GML) Section 239-m and 239-n, if any of the conditions of this GML review are overridden by the board, then the local land use board must file a report with the County Commissioner of Planning of the final action taken. If the final action is contrary to the recommendation of the Commissioner, the local land use board must state the reasons for such action.

19 In addition, pursuant to Executive Order 01-2017 signed by County Executive Day on May 22, 2017, County departments are prohibited from issuing a County permit, license, or approval until the report is filed with the County Commissioner of Planning. The applicant must provide to any County agency which has jurisdiction of the project: 1) a copy of the Commissioner report approving the proposed action; or 2) a copy of the Commissioner of Planning recommendations to modify or disapprove the proposed action, and a certified copy of the land use board statement overriding the recommendations to modify or disapprove, and the stated reasons for the land use board's override.

Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Yitzchok Ullman, Ramapo
New York State Department of State

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Rockland County Department of Health
Rockland County Sewer District #1
Rockland County Office of Fire and Emergency Services
Monsey Fire District

Anthony R. Celentano P.E.
Village of Kaser Zoning Board

Rockland County Planning Board Members

**NYS General Municipal Law Section 239 requires a vote of a 'majority plus one' of your agency to act contrary to the above findings.*

The review undertaken by the Rockland County Planning Department is pursuant to, and follows the mandates of Article 12-B of the New York General Municipal Law. Under Article 12-B the County of Rockland does not render opinions, nor does it make determinations, whether the item reviewed implicates the Religious Land Use and Institutionalized Persons Act. The Rockland County Planning Department defers to the municipality forwarding the item reviewed to render such opinions and make such determinations if appropriate under the circumstances.

In this respect, municipalities are advised that under the Religious Land Use and Institutionalized Persons Act, the preemptive force of any provision of the Act may be avoided (1) by changing a policy or practice that may result in a substantial burden on religious exercise, (2) by retaining a policy or practice and exempting the substantially burdened religious exercise, (3) by providing exemptions from a policy or practice for applications that substantially burden religious exercise, or (4) by any other means that eliminates the substantial burden.

Proponents of projects are advised to apply for variances, special permits or exceptions, hardship approval or other relief.

Pursuant to New York State General Municipal Law §239-m(6), the referring body shall file a report of final action it has taken with the Rockland County Department of Planning within thirty (30) days after final action. A referring body which acts contrary to a recommendation of modification or disapproval of a proposed action shall set forth the reasons for the contrary action in such report.